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EXAMINER

HAYES, JOHN W

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/543,049

Applicant(s)

POMERANCE, BRENDA

Examiner

John W Hayes

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ML

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 46-63 and 82-89 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 82-84 is/are allowed.
- 6) ☒ Claim(s) 46-63 and 85-89 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 February 2004 has been entered.

Status of Claims

2. Applicant has previously canceled claims 1-45 and 64-81. Applicant has amended claims 85 in the amendment filed 19 February 2004. Thus, claims 46-63 and 82-89 remain pending and are again presented for examination.

Response to Arguments

3. Applicant's arguments filed 19 February 2004 have been fully considered but are not persuasive.

4. With respect to claims 46, 48, 50 and 52-54, applicant argues that Sloo teaches that the complainer is anonymous, whereas claim 46 requires an identified complainer. Examiner submits that Sloo teaches an added benefit that enables the parties to a dispute to remain anonymous so that members of the public and also the complainees cannot determine the identity of the complainer, however, examiner submits that this does not exclude other conventional methods to carry out communication between the parties. Sloo teaches a method of identifying the complainer to the system. Sloo teaches that the user enters identifying information when registering a complaint (Col. 4, lines 48-51). Sloo also indicates that the user enters their phone number and e-mail address to identify the user (Col. 4 line 66-Col. 5 line 2). Furthermore, although Sloo teaches that the communications between the complainer and complaine are anonymous, examiner submits that it would have been obvious to one having ordinary skill in the art

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to provide complainer identifying information to the complainee in the event that the parties have no desire to remain anonymous. For example, the previously cited reference "Online Mediation Offered for Resolving E-Commerce Disputes" discloses that anyone interested in using online mediation can go to a web site, detail their grievance and submit it using e-mail. A center then contacts the other party and if the other party agrees to mediation, then all parties have the ability to communicate with each other by e-mail, instant messaging and even group discussions until they solve the problem. Examiner submits that using e-mail addresses is a form of user identification and it would have been obvious to use this type of identifier to communicate between parties of a dispute that don't desire to remain anonymous. In this regard, the Declarations by Kallas and Femenia are not found by the examiner to be persuasive. Both Declarations by Kallas (paragraph 14) and Femenia (paragraph 15) recognize that Sloo enables complainers who want to be known to the target to reveal their identity in email direct negotiation. Examiner submits that, although Sloo discloses an added feature or benefit of allowing the complainers to remain anonymous, this does not preclude other conventional methods to carry out communication between the parties such as the use of email addresses as taught by Sloo, where the parties are identifiable if there is no desire to remain anonymous. As evidence to show that the parties to a dispute may be identified if desired, examiner provided a reference (Online Resolution) as discussed in the rejection of claim 46 below. Examiner further submits that identifying parties to a dispute is not, by itself, novel or unobvious based on the teachings of Sloo and Online Resolution.

Declarations by Kallas and Femenia. Based on the Declarations by Kallas and Femenia, applicant suggests that it is improper to combine Sloo and Online Resolution. Examiner respectfully disagrees. Both Declarations indicate that since Sloo provides a teaching related to arbitration and Online Resolution deals with mediation, one of ordinary skill in the art would not try to combine the teachings of the references in the same proceeding (paragraph 10 of Declaration by Kallas; paragraph 11 of Declaration by Femenia). In response to applicant's argument that it would not have been obvious to combine the references of Sloo and Online Resolution since Sloo relates to arbitration and Online Resolution relates to mediation, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed

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invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). With regard to the claim language, there is no suggestion that the system relates to either arbitration or mediation as a method of resolving a dispute, but rather relates to a more direct method of resolving disputes between a complainer and a complainee such as direct communication. Examiner submits that in one embodiment, Sloo discloses this more direct means of resolving disputes between the parties with regard to the "Negotiate the Complaint" option (Col. 7, lines 28-35). Examiner is not suggesting bodily incorporating the structure of Online Resolution into the system of Sloo, but rather is relying on the Online Resolution teaching to merely show that identifying parties of a dispute was known prior to applicant's invention, irregardless of whether the method was arbitration, mediation or any other method of handling disputes. Sloo and Online Resolution are both clearly related to handling disputes and examiner submits that it is reasonable to draw inferences from either of these references to show what was known or obvious in the art of dispute resolution at the time of applicant's claimed invention.

5. With respect to claims 47, 55-58, 61-63 and 86, applicant asserts that, based on the Declarations by Kallas and Femenia, it would not have been obvious to combine Sloo and Online Resolution and combine Sloo and Eisen. Both Declarations indicate that since Sloo provides a teaching related to arbitration and Online Resolution and Eisen deal with mediation, one of ordinary skill in the art would not try to combine the teachings of the references in the same proceeding (paragraphs 10-11 of Declaration by Kallas; paragraphs 11-12 of Declaration by Femenia). Both Declarations also state that, even if the references were combined, the resulting combination would not include a computer system that collects input concerning the emotional state of a complainer (paragraphs 12-13 of Declaration by Kallas; paragraphs 13-14 of Declaration by Femenia). In response to applicant's argument that the combination of Sloo and Online Resolution or the combination of Sloo and Eisen would not result in a computer system that collects input concerning the emotional state of a complainer, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference;

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nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). With regard to the claim language, there is no suggestion that the system relates to either arbitration or mediation as a method of resolving a dispute, but rather relates to a more direct method of resolving disputes between a complainer and a complaineer such as direct communication. Examiner submits that in one embodiment, Sloo discloses this more direct means of resolving disputes between the parties with regard to the "Negotiate the Complaint" option (Col. 7, lines 28-35). Examiner is not suggesting bodily incorporating the structure of Online Resolution or Eisen into the system of Sloo, but rather is relying on the Online Resolution and Eisen teaching to merely provide evidence that the knowledge of emotional state information of a complainer is important and must be given weight when resolving disputes between complainers and complainees. Sloo and Online Resolution are both clearly related to handling disputes and examiner submits that it is reasonable to draw inferences from either of these references to show what was known or would have been obvious to one of ordinary skill in the art of dispute resolution at the time of applicant's claimed invention. Thus, examiner maintains that it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include in Sloo a summary of the emotional state of the complainer in the complaint based on the teachings and suggestions of Online Resolution and Eisen. As suggested by Online Resolution and Eisen, including the emotional state of the complainer would enable the complaineer to get a better understanding of the complainers state of feeling and would enable the complaineer to more effectively respond to the complaint.

Applicant asserts that the references to Online Resolution and Eisen are not within the field of the inventor's endeavor and, therefore, do not qualify as prior art. In response to applicant's argument that Online Resolution and Eisen is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Examiner respectfully disagrees with applicant's characterization of these references since both references are obviously

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related to handling disputes between parties and both provide teachings related to handling of emotions within a dispute process and, therefore, examiner believes that these references are reasonably pertinent to applicant's claimed invention. Examiner submits that just because these references may provide references to a mediator does not make them completely irrelevant or even disqualify them as prior art.

6. With respect to claims 49 and 59, applicant asserts that the reference to Brownwell is not within the field of automated assisted negotiation systems and is not reasonably pertinent to the field of invention. In response to applicant's argument that Brownwell is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the claim limitations include the recitation that the prepared complaint includes statements in first person language. Examiner submits that the reference to Brownwell is reasonably pertinent to applicant's claimed invention since it discloses advantages to using first person language when communicating and that using first person language helps to prevent hostile or tense arguments when attempting to resolve a dispute between parties. Brownwell discloses that effective communication is essential to the success of professionals and that to be effective communicators, professionals should use the basics such as speaking in a first-person voice.

7. With respect to claims 51, 60 and 87, applicant also asserts that McFarland is not reasonably pertinent to the field of the present invention. Again, examiner respectfully disagrees since the claim includes a recitation relating to automatically docketing the complaint for follow up action and since McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5).

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8. With respect to claim 85 and 88-89, applicant argues that the combination of Sloo with Theissen is improper based on the Declarations of Kallas (paragraph 15) and Femenia (paragraph 16) and does not teach suggesting a remedy "during complaint filing". Examiner respectfully disagrees and submits that the combination of Sloo and Theissen is proper since Sloo and Theissen are both related to dispute resolution. Applicant admits (response page 11) that Sloo includes disclosure related to suggesting a remedy (See Sloo, Col. 4, lines 61-67; Col. 7 line 65-Col. 8 line 5), but then argues that this remedy is not proposed during complaint filing. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., suggesting a remedy during complaint filing) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, examiner submits that Theissen discloses that the users involved in resolving a dispute are encouraged to input information pertaining to their individual preferences on each issue to be negotiated and make a proposal or identify at least one alternative solution to the problem that they would find acceptable (Col. 3, lines 18-31). Theissen further discloses that the system then uses the preference information to provide equivalent alternatives to party proposals to insure no loss of satisfaction while minimizing the maximum gain achieved by any party (Col. 3, line 30-40 and Col. 5, lines 55-60). Thus, Theissen discloses providing remedies or proposed solutions to the problem at the outset of the problem identification. Examiner submits that including this benefit in the teachings of Sloo would not fundamentally change the system of Sloo as suggested in the Declarations, but would rather provide the added feature of suggesting a remedy to the user from which he/she could select in trying to resolve the dispute with mutual satisfaction, especially in view of the teaching by Sloo that the system is capable of arriving at proposed solutions to the dispute (Col. 4, lines 61-67; Col. 7 line 65-Col. 8 line 5; Col. 11, lines 21-35).

Drawings

9. The corrected or substitute drawings were received on 05 March 2002. These drawings are approved by the draftsman.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of "Online Mediation Offered for Resolving E-Commerce Disputes", Press Release, Online Resolution, 23 March 2000 [hereinafter referred to as Online Resolution]..

As per **Claim 46**, Sloo discloses a method of processing a complaint comprising:

- automatically receiving, at a computer, initial information from a complainer including information identifying the complainer (Col. 1 line 65-Col. 2 line 2; Col. 2, lines 55-60; Col. 3, lines 12-21; Col. 4 line 51-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53);
- automatically selecting, at the computer, selected data from data previously received from a complaineo based on the initial information from the complainer (Col. 11, lines 21-36; Col. 12 line 62-Col. 13 line 15; Col. 14, lines 1-8);
- automatically providing, from the computer, the selected data to the complainer (Col. 4, lines 45-50; Col. 10, lines 47-53, Col. 11, lines 21-36; Col. 12 line 62-Col. 13 line 15; Col. 14, lines 1-8);
- automatically receiving, at the computer, additional information from the complainer after providing the data to the complainer (Col. 4, line 63-Col. 5 line 2; Col. 5, lines 21-29);
- automatically preparing, at the computer, the complaint based on the initial information and the additional information received from the complainer (Col. 5, lines 3-11 and 21-29)

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- automatically presenting, from the computer, the prepared complaint to the complainer for approval to generate an approved complaint (Col. 5, lines 20-29)
- automatically forwarding, from the computer, the approved complaint to the complainee (Col. 5, lines 37-46).

Sloo discloses automatically retrieving and selecting data from previously resolved complaints based on the initial information from the complainer and providing this data to the complainer. Sloo also teaches that the system would draw from information gathered from previous recorded encounters and inform the participant of what the complaint handling apparatus knows about the object; or create warnings or bulletins on objects based on what it knows about the participant and the situation (Col. 11, lines 21-36; Col. 12 line 62-Col. 13 line 15; Col. 14, lines 1-8). Sloo fails to explicitly disclose that the information gathered from previous recorded encounters or previously resolved complaints is from the complainee, however, examiner submits that it would have been obvious to one having ordinary skill in the art at the time of applicant's invention that information recorded from previous encounters or previously resolved complaints would include information from a complainee.

Sloo also fails to explicitly disclose that the complaint forwarded to the complainee includes information identifying the complainer. Sloo does teach, however, an added benefit that enables the parties to a dispute to remain anonymous so that members of the public and also the complainees cannot determine the identity of the complainer, however, this does not exclude other conventional methods to carry out communication between the parties. Sloo teaches a method of identifying the complainer to the system. Sloo teaches that the user enters identifying information when registering a complaint (Col. 4, lines 48-51). Sloo also indicates that the user enters their phone number and e-mail address to identify the user (Col. 4 line 66-Col. 5 line 2). Although Sloo teaches that the communications between the complainer and complainee are anonymous, examiner submits that it would have been obvious to one having ordinary skill in the art to provide complainer identifying information to the complainee in the event that the parties have no desire to remain anonymous. For example, Online Resolution discloses that anyone interested in using online mediation can go to a web site, detail their grievance and submit it using e-mail. A center then contacts the other party and if the other party agrees to mediation, then all

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parties have the ability to communicate with each other by e-mail, instant messaging and even group discussions until they solve the problem. Examiner submits that using e-mail addresses is a form of user identification and it would have been obvious to use this type of identifier to communicate between parties of a dispute that don't desire to remain anonymous.

As per **Claim 48**, Sloo further discloses wherein the prepared complaint includes an indication of a remedy desired by the complainer and could include a monetary value for settlement and certain contract conditions that the complainer would accept to settle the dispute (Col. 4, lines 61-67; Col. 7 line 65-Col. 8 line 5). Sloo does not expressly disclose that the complaint includes at least two remedies desired by the complainer, however, this would have been obvious to one of ordinary skill in the art. Sloo suggests remedies such as monetary values and certain contract conditions that the complainer would accept to settle the dispute suggesting that any number of remedies would be included in the complaint and communicated to the complainee. Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include any number of remedies in the complaint and communicate these suggested remedies to the complainee. Sloo provides motivation by indicating that this would give the complainee the option of accepting or refusing the offer in an effort to settle the dispute.

As per **Claim 50**, Sloo and Online Resolution fail to expressly disclose that the data provided to the complainer previously received from a complainee relates to a complaint handling policy. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps of receiving data and providing data to the complainer would be performed the same regardless of the type of data or source of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to receive from a complainee or any other source any type of data and providing the

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data to a complainer because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per Claim 52, Sloo further discloses providing a response from the complaine to the complainer (Col. 1, lines 57-60; Col. 2, lines 7-12; Col. 6, lines 65-67; Col. 7, lines 58-65).

As per Claim 53, Sloo further discloses automatically preparing a case summary based on the complaint and the response ((Col. 8, lines 33-40; Col. 9, lines 57-63; Col. 10, lines 13-21).

As per Claim 54, Sloo further discloses providing data related to other complaints to the complainer prior to preparing the complaint (Col. 10 line 47-Col. 11 line 36).

12. Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of Online Resolution as applied above and further in view of Eisen, Joel, "Are We Ready for Mediation in Cyberspace" [hereinafter referred to as Eisen].

As per Claim 47, Sloo discloses a method of facilitating dispute resolution between a complainer and a complaine and generating a prepared complaint, however, does not specifically teach that the prepared complaint includes the emotional state of the complainer. Sloo does teach the use of an automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Online Resolution discloses an alternative dispute resolution method conducted online wherein participants fill out a form detailing their grievance and submit it by e-mail. Online Resolution suggests that emotions are a big part of the mediation process. Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5)

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since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Online Resolution and Eisen. Providing the emotional state of the complainer would enable the complaine to get a better understanding of the complainers state of feeling and would enable the complaine to more effectively respond to the complaint.

As per **Claim 55**, Sloo discloses a method of processing a complaint comprising:

- automatically receiving, at a computer, information from a complainer including information describing a problem and information identifying the complainer (Col. 1 line 65-Col. 2 line 2; Col. 2, lines 55-60; Col. 3, lines 12-21; Col. 4 line 51-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53)
- automatically, at the computer, preparing the complaint based on the information received from the complainer (Col. 5, lines 3-11)
- automatically, at the computer, presenting the prepared complaint to the complainer for approval to generate an approved complaint (Col. 5, lines 20-29)
- automatically forwarding, from the computer, the approved complaint to the complaine (Col. 5, lines 37-46).

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Sloo discloses a method of facilitating dispute resolution between a complainer and a complaine and generating a prepared complaint, however, does not specifically teach that the prepared complaint includes the emotional state of the complainer. Sloo does teach the use of an automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Online Resolution discloses an alternative dispute resolution method conducted online wherein participants fill out a form detailing their grievance and submit it by e-mail. Online Resolution suggests that emotions are a big part of the mediation process. Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5) since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Online Resolution and Eisen. Providing the emotional state of the complainer would enable the complaine to get a better understanding of the complainers state of feeling and would enable the complaine to more effectively respond to the complaint.

As per **Claim 56 and 57**, Sloo and Online Resolution fail to expressly disclose that the data provided to the complainer is previously received from a complaine or that it relates to a complaint

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handling policy. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps of receiving data and providing data to the complainer would be performed the same regardless of the type of data or source of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to receive from a complaineo or any other source any type of data and providing the data to a complainer because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

As per Claim 58, Sloo further discloses wherein the prepared complaint includes an indication of a remedy desired by the complainer and could include a monetary value for settlement and certain contract conditions that the complainer would accept to settle the dispute (Col. 4, lines 61-67; Col. 7 line 65-Col. 8 line 5). Sloo does not expressly disclose that the complaint includes at least two remedies desired by the complainer, however, this would have been obvious to one of ordinary skill in the art. Sloo suggests remedies such as monetary values and certain contract conditions that the complainer would accept to settle the dispute suggesting that any number of remedies would be included in the complaint and communicated to the complaineo. Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include any number of remedies in the complaint and communicate these suggested remedies to the complaineo. Sloo provides motivation by indicating that this would give the complaineo the option of accepting or refusing the offer in an effort to settle the dispute.

As per Claim 61, Sloo further discloses providing a response from the complaineo to the complainer (Col. 1, lines 57-60; Col. 2, lines 7-12; Col. 6, lines 65-67; Col. 7, lines 58-65).

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As per Claim 62, Sloo further discloses automatically preparing a case summary based on the complaint and the response ((Col. 8, lines 33-40; Col. 9, lines 57-63; Col. 10, lines 13-21).

As per Claim 63, Sloo further discloses providing data related to other complaints to the complainer prior to preparing the complaint (Col. 10 line 47-Col. 11 line 36).

13. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above and further in view of Brownwell, Eileen O., "Say it Right".

As per Claims 49, Sloo discloses a method of preparing and processing a complaint, however, fails to expressly disclose wherein the prepared complaint includes statements in the first person language based on information received from the complainer that was not in first person language. Brownwell discloses that effective communication is essential to the success of professionals and that to be effective communicators, professionals should use the basics such as speaking in a first-person voice. Also, using first person language helps to prevent hostile or tense arguments when attempting to resolve a dispute between parties. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include preparing complaint statements using first person language to improve the communication between the parties as taught by Brownwell. Brownwell provides motivation by indicating that no other single interpersonal skill is as important to group dynamics, team development or customer service as the ability to communicate effectively and using first person language is one of the basics for communicating effectively.

14. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above and further in view of McFarland, U.S. Patent No. 6,154,753.

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As per Claim 51, Sloo discloses a method for dispute resolution, however, Sloo fails to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to docket the complaint for follow up actions at predetermined times as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complaine.

15. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above and further in view of Brownwell, Eileen O., "Say it Right".

As per Claim 59, Sloo discloses a method of preparing and processing a complaint as discussed above, however, fail to expressly disclose wherein the prepared complaint includes statements in the first person language based on information received from the complainer that was not in first person language. Brownwell discloses that effective communication is essential to the success of professionals and that to be effective communicators, professionals should use the basics such as speaking in a first-person voice. Also, using first person language helps to prevent hostile or tense arguments when attempting to resolve a dispute between parties. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include preparing complaint statements using first person language to improve the communication between the parties as taught by Brownwell. Brownwell provides motivation by indicating that no other single interpersonal skill is as important to group dynamics, team development or customer service as the ability to communicate effectively and using first person language is one of the basics for communicating effectively.

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16. Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450, Online Resolution and Eisen as applied above, and further in view of McFarland, U.S. Patent No. 6,154,753.

As per **Claim 60**, Sloo disclose a method for dispute resolution, however, fail to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to docket the complaint for follow up actions at predetermined times as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complaine.

17. Claim 85 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 in view of Thiessen, U.S. Patent No. 5,495,412.

As per **Claim 85**, Sloo discloses a method of processing a complaint comprising:

- automatically receiving, at a computer, information from a complainer including information relating to a problem experienced by the complainer and information identifying the complainer (Col. 1 line 65-Col. 2 line 2; Col. 2, lines 55-60; Col. 3, lines 12-21; Col. 4 line 51-Col. 5 line 2; Col. 12, lines 47-61; Col. 13, lines 50-53);
- automatically selecting, at the computer, at least one remedy or proposed solution based on the information from the complainer (Col. 11, lines 21-36);

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- automatically suggesting, at the computer, the at least one selected remedy to the complainer (Col. 11, lines 21-36).
- automatically preparing, at the computer, the complaint based on the information received from the complainer (Col. 5, lines 3-11)
- automatically presenting, from the computer, the prepared complaint to the complainer for approval to generate an approved complaint (Col. 5, lines 20-29)
- automatically forwarding, from the computer, the approved complaint to the complaine (Col. 5, lines 37-46).

Sloo, however, fails to specifically disclose receiving a response to the suggested remedy.

Thiessen discloses a computer-based method for interactive computer-assisted negotiations and teaches automatically suggesting solutions or remedies to parties of a dispute (Col. 3, lines 30-39 and 50-55; Col. 4, lines 54-60; Col. 5, lines 53-60) and receiving a response to the suggested solution (Col. 4, lines 55-60; Col. 5, lines 55-60). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to suggest a remedy to a party of a dispute as disclosed by Thiessen. Thiessen provides motivation by indicating that making suggestions or proposed solutions would provide an alternative that all parties of a conflict could consider and might find acceptable (Col. 1, lines 25-41) or may significantly help in the quest for agreement.

As per **Claim 88**, Sloo further discloses providing a response from the complaine to the complainer (Col. 1, lines 57-60; Col. 2, lines 7-12; Col. 6, lines 65-67; Col. 7, lines 58-65).

As per **Claim 89**, Sloo further discloses providing data related to other complaints to the complainer prior to preparing the complaint (Col. 10 line 47-Col. 11 line 36).

18. Claim 86 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 and Thiessen, U.S. Patent No. 5,495,412 as applied above and further in view of Eisen, Joel, "Are We Ready for Mediation in Cyberspace" [hereinafter referred to as Eisen].

As per Claim 86, Sloo discloses a method of facilitating dispute resolution between a complainer and a complaine and generating a prepared complaint, however, does not specifically teach that the prepared complaint includes the emotional state of the complainer. Sloo does teach the use of an automatic decision maker option wherein participant behavior is monitored in certain situations and outcomes over time; and artificial intelligence techniques may be used to predict an outcome based on what it has learned about behavior, situations and their outcome (Col. 10, lines 54-67). Eisen discloses the importance of expressing emotion when settling disputes and teaches that weight must be given to emotion when settling disputes between individuals (page 5) since it can foster the process of resolution and can enable one to vent their feelings or express one's position on the dispute. Eisen teaches that the opportunity to tell one's version of the dispute directly to the opposing party and to express accompanying emotions can be cathartic for mediation participants. Eisen also indicates that understanding the parties concerns, emotions and feelings are an important part in the mediation process since it enables the parties to engage in therapeutic conversation (page 5). Eisen goes on to state that it would be unwarranted to deliberately suppress expressions of anger or emotion in order to promote "constructive" responses since no one would know that the participant had been angry and that anger is a common feature of disputes and participants have legitimate rights to express it to other participants (page 7). Thus, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include a summary of the emotional state of the complainer in the complaint based on the teachings of Eisen. Providing the emotional state of the complainer would enable the complaine to get a better understanding of the complainers state of feeling and would enable the complaine to more effectively respond to the complaint.

19. Claim 87 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sloo, U.S. Patent No. 5,895,450 and Thiessen, U.S. Patent No. 5,495,412 as applied above and further in view of McFarland, U.S. Patent No. 6,154,753.

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As per Claim 87, Sloo discloses a method for dispute resolution, however, Sloo fails to specifically disclose automatically docketing the complaint for follow-up action. McFarland discloses a method and system for meeting quality standards and a method that enables an organization to carry on its business activities in accordance with quality standards and teaches a method for entering customer complaints into the system (Col. 17, lines 30-57) and wherein the complaint form is saved with an indication of when follow up with the customer is needed (Col. 18, lines 1-5). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sloo and include the ability to docket the complaint for follow up actions at predetermined times as taught by McFarland. The motivation for doing this would be to ensure that the complaint is resolved or at least responded to within a certain period of time that is appropriate to the complainer or complaine.

Allowable Subject Matter

20. Claims 82-84 are allowable over the prior art of record.

Conclusion

21. The prior art previously made of record and not relied upon is considered pertinent to applicant's disclosure.

- Zacher, Annette discloses that emotional factors may be the key ingredient to keeping customers and profiting in the changing high tech world.
- Hurd discloses a system and method for tracking issues and assigning the issue to the appropriate personnel.
- Burchetta et al disclose a computerized system for automated dispute resolution via the Internet or other communications linkage
- Bereiter et al disclose a method for automated problem resolution and teach rules for determining which group or person should handle the problem.
- Thiessen discloses a system with graphical interfaces that are used by each party involved in the negotiation process to input information pertaining to their individual preferences on each issue to be

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negotiated and the system encourages parties to make a proposal or identify at least one alternative solution to the problem that their party would find acceptable

- Griffeth et al disclose a method wherein an agent generates a proposal acceptable to it and transmits the proposal to another agent. If the receiving agent determines if the proposal is acceptable and if not generates a counterproposal and the process continues until a proposal acceptable to both parties is found
- Rosen discloses a method for electronic merchandise dispute resolution wherein trusted agents are used to resolve disputes
- Wamsley et al disclose a personal injury claim management system and teach the use of an alternative dispute resolution process when there is difficulty in settling a claim
- Kesel discloses an apparatus for collecting, analyzing and reporting information on goods and services offered for sale to customers by providers
- "SquareTrade Launches New Consumer Protection Tool; First Online Dispute Resolution Pilot on eBay" discloses a structured and unbiased multi-step process to guide disputing parties to a resolution, which is conducted completely online and wherein a mediator is assigned to work with the two parties to develop a fair, agreeable settlement
- Dennehy, "New Online Mediation Service" discloses an online mediation service wherein users visit a web site to fill out a form describing their dispute and the site contacts the other party to see if they are willing to participate in mediation. If both sides agree, a mediator is assigned to help the parties reach an agreement.

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22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hayes whose telephone number is (703)306-5447. The examiner can normally be reached Monday through Friday from 5:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammell, can be reached on (703) 305-9768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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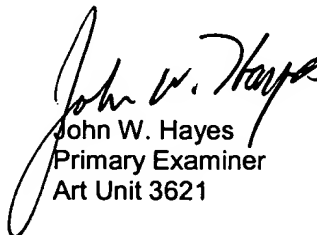
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John W. Hayes
Primary Examiner
Art Unit 3621

March 30, 2004